

REMARKS

These remarks are in response to the Office Action mailed September 20, 2005. Claims 58-65 have been canceled without prejudice to Applicants' right to prosecute the canceled subject matter in any divisional, continuation, continuation-in-part, or other application. Claims 1, 27 and 66 have been amended. Support for the amendment to claim 1 and 27 can be found, for example, at page 63, paragraph 137. Support for the amendment to claim 66 can be found throughout the specification. Claims 74-77 have been added. Support for the new claims can be found in the figures (e.g., Figures 1-5); page 14-15 (paragraph 0042); and claims 58-65 as originally filed. No new matter is believed to have been introduced.

REJECTION UNDER 35 U.S.C. §102(e)

Claims 1-30, 34-37, 41-42, 45, 49-52, 58-65 and 66-71 stand rejected under 35 U.S.C. §102(e) as allegedly anticipated by McDevitt et al. (U.S. Patent No. 6,908,770). Applicants respectfully traverse this rejection.

McDevitt et al. do not teach or suggest Applicants' claimed invention. Referring to Figure 1 of McDevitt et al. there is shown an embodiment of the McDevitt et al. device having a light source 110, a sensor array 120 and a detector 130. No fluid flow channels from a first face of the sensor array to a second face of the sensor array are depicted or described. In fact, the device of McDevitt et al. do not require that the fluid flow from one face of the sensor array to another, rather only light passes through the sensor array.

The Office Action directs Applicants to Figure 4 of McDevitt et al. for the alleged teaching that holes or channels (i.e., etched windows 266) extend from a first

surface to second surface (see the Office Action at page 2). Applicants respectfully submit that McDevitt et al. do not teach or suggest a sensor or sensor array comprising flow channels that result in a pressure differential between a first face and a second face that is created and maintained. Rather, McDevitt et al. show a closed chamber (cavity 286) that would result in an equilibrium being created in the system due to elimination of fluid flow, thus eliminating any pressure differential. Thus, the structure of McDevitt et al. is different because a pressure differential cannot be maintained by the arrangement of the elements as described throughout the specification and figures of McDevitt et al.

McDevitt et al. also shows a sensor particle present in cavities within a substrate. Applicants submit that the "cavities" described and shown in McDevitt et al. are also used to immobilize a sensor particle. Furthermore, it is important to note that the sensor particles of McDevitt et al. are not located "on the first face" but are rather located "within" a cavity in a substrate. As such there is no simple way to modify the sensor's volume or flow-rate to optimize analyte detection (see, e.g., paragraph 0054, page 20). Support for the element of Applicants' claim, "located on the first face", can be found throughout the specification (e.g., see figure 4A; page 20, paragraph 0053, 2nd sentence; page 21, paragraph 58, 2nd sentence).

//

//

//

//

//

McDevitt et al. fail to teach or suggest a system where the pressure difference is maintained (see, e.g., claims 1 and 27), or where the sensor is a chemically sensitive resistor (see, e.g., claim 66). Thus, McDevitt et al. do not teach or suggest each and every element of Applicants' claimed invention. Accordingly, Applicants respectfully request withdrawal of the rejection.

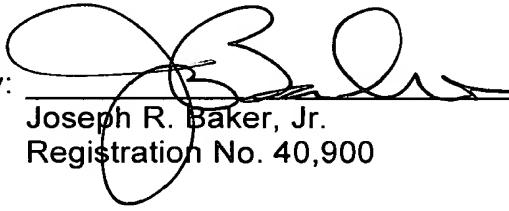
This Response is being filed within 1 month of the mailing of the Office Action, thus no extension of time fees are needed. However, should any fee be required for consideration of this Response the Commissioner is authorized to charge (or credit) Deposit Account No. 02-4800.

Respectfully submitted,

BUCHANAN INGERSOLL, L.L.P.

Date: October 20, 2005

By:


Joseph R. Baker, Jr.
Registration No. 40,900

Suite 300
12230 El Camino Real
San Diego, CA 92130
(858) 509-7300